

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

_____	)	
In the Matter of	)	
	)	
Empowering Consumers to Prevent and Detect	)	CG Docket No. 11-116
Billing for Unauthorized Charges (“Cramming”)	)	
	)	
Consumer Information and Disclosure	)	CG Docket No. 09-158
	)	
Truth-in-Billing and Billing Format	)	CC Docket No. 98-170
_____	)	

**REPLY COMMENTS OF BUSINESS ONLINE PAGES, INC.**

Business Online Pages, Inc. (“BOP”), by and through its attorneys, submits these reply comments in response to the comments submitted on the Federal Communications Commission’s (“Commission’s”) Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceedings.<sup>1</sup> BOP supports the Commission’s goal of ensuring that all services billed on local telephone bills are knowingly and fully authorized by the billed customer. Based on the points raised in the comments, however, BOP is convinced that voluntary industry measures are the most appropriate method to achieve this important goal.

The record shows that there are established consumer benefits to third-party billing and that the vast majority of third-party billing is legitimate. Further, it is clear from the record that additional Commission regulations would *increase* the cost of LEC billing and would undermine the ability of service providers to offer low-cost services to customers.<sup>2</sup> Finally, LECs that

---

<sup>1</sup> See *Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges (“Cramming”)*, CG Docket No. 11-116, Notice of Proposed Rulemaking, FCC 11-106 (rel. July. 12, 2011) (“NPRM”).

<sup>2</sup> BOP offers small businesses the ability to maximize their presence on the Internet by assisting companies with search engine optimization techniques to make customers’

permit third parties to include charges on their bills follow strict application, monitoring and remedial regimes to curb instances of cramming. These measures are effective and much less restrictive on legitimate third-party billing than many of the NPRM's more onerous proposals.

In light of the important consumer benefits of third-party billing and collection, the true scale of the problem and the potential costs of additional regulatory requirements, the appropriate objective should be to improve the voluntary industry measures to reduce instances of cramming. The Commission should not adopt additional rules at this time.

**I. THERE ARE WELL-ESTABLISHED CONSUMER BENEFITS TO LEGITIMATE THIRD-PARTY BILLING AND COLLECTION**

LECs are in the best position to know and understand the demands of their customers.<sup>3</sup> In order to preserve their relationships, LECs have strong incentives to protect their customers against instances of cramming. As AT&T explained, “[b]ill quality is a major driver of overall customer satisfaction and it is not in AT&T’s best interests for its long-term and valued ILEC customers to have unauthorized third-party charges placed on their AT&T bills.”<sup>4</sup> LECs know that their customers do not want to see unauthorized charges on their bills, however, the LECs also understand that their customers realize important conveniences from “single bill” services.<sup>5</sup>

---

websites stand out among the competition. BOP relies upon LEC billing services as a way to provide these services to its small business customers in a low-cost and convenient manner. BOP verifies each and every order submitted.

<sup>3</sup> See Comments of Frontier Communications Corporation, CG Docket No. 11-116 et al. at 3 (filed Oct. 24, 2011) (“Frontier Comments”) (LECs have a “unique understanding of their customer base”).

<sup>4</sup> Comments of AT&T Inc., CG Docket No. 11-116 at Attachment A FTC Workshop Comments by AT&T at 1 (filed Oct. 24, 2011) (“AT&T Comments”).

<sup>5</sup> The incentive for LECs to permit third-party billing is not financial, but customer demand. According to one LEC, “[t]hird-party billing is not a significant revenue stream for Frontier. Rather, Frontier offers it to allow consumers the broadest choice possible in purchasing and paying for telecommunications-related products and services.” Frontier Comments at 7.

Specifically, LEC customers enjoy the ability to purchase the low-cost third-party goods and services that result from the fact that the third-party service providers do not have to duplicate the billing and collections mechanisms of the LECs. In addition, LEC customers enjoy the ease and convenience of third-party billing, which allows them to pay for many different goods and services on a single bill. “One stop shopping” and single bill invoicing remain competitive advantages in today’s marketplace. As an example, Verizon stated that it permits third-party charges to be placed on its bills because “customers prefer to review and pay a single bill for these services.”<sup>6</sup> Further, Frontier stated that, “[t]hird-party billing offers a convenient and efficient payment method for many customers.”<sup>7</sup>

Without third-party billing many third-party service providers would go out of business.<sup>8</sup> If the Commission were to ban third-party billing, or impose such onerous regulations as to increase costs and effectively ban the practice, LEC customers and customers of third-party goods and services would lose out on the low-cost goods and services that they can currently purchase with the ease and convenience of a single monthly bill.

## **II. THE LECS’ EXPERIENCES DEMONSTRATE THAT THE OVERWHELMING MAJORITY OF THIRD-PARTY BILLS ARE LEGITIMATE**

The NPRM sets forth an incomplete picture of the scope of cramming. The NPRM’s conclusions are based primarily on the fact that the Commission has received between 2,000 and 3,000 cramming complaints each year between 2008 and 2010.<sup>9</sup> Each instance of alleged cramming is certainly a concern that should be promptly addressed. However, the LECs, which

---

<sup>6</sup> See Comments of Verizon and Verizon Wireless, CG Docket No. 11-116 et al. at 1 (filed Oct. 24, 2011) (“Verizon Comments”).

<sup>7</sup> Frontier Comments at 8.

<sup>8</sup> See Comments of Billing Concepts, Inc., CG Docket No. 11-116 et al. at 10 (filed Oct. 24, 2011) (“BSG Comments”).

<sup>9</sup> See NPRM, ¶ 19.

are on the front lines of customer billing inquiries, have offered some important perspective on these numbers. According to the LECs, the instances of alleged cramming (much less proven cramming) are a small drop in the bucket when compared to total third-party charges that are placed on LEC customer bills. In other words, the *benefits* of third-party billing significantly outweigh the *costs* imposed by the small number of cramming incidents not prevented under today's voluntary measures.

According to AT&T, “[c]ramming is certainly an issue that must be dealt with, but when viewed in context, the reported instances of cramming, which number in the thousands annually, pale in comparison to the number of consumers with third-party billed charges, which number in the tens of millions.”<sup>10</sup> Further, “[i]n AT&T’s experience, the overwhelming majority of third-party charges on its wireline bills are legitimate.”<sup>11</sup> AT&T’s experience with alleged instances of cramming is similar to the numbers that the Commission is seeing in complaints (a few thousand annually), however, when compared to the tens of millions of third-party billed charges annually, the scope of the alleged problem shrinks dramatically.

CenturyLink agrees that “the incidents [of cramming] are not high as a percentage of total billed transactions.”<sup>12</sup> Further, CenturyLink found that, “the number of cramming complaints decreased each quarter in 2010” and “cramming complaints were not even among the top 5 complaint categories reported out by the Commission in 2010.”<sup>13</sup>

While BOP agrees that cramming is an important issue for the industry to address, the scope of the problem is not nearly as broad as the NPRM assumes. The Commission should

---

<sup>10</sup> AT&T Comments at 2.

<sup>11</sup> *Id.* at 7.

<sup>12</sup> Comments of CenturyLink, CG Docket No. 11-116 at n.50 (filed Oct. 24, 2011) (“CenturyLink Comments”).

<sup>13</sup> *Id.*

keep this perspective in mind when considering the necessity for, and scope of, regulatory requirements when weighed against the effective voluntary industry practices discussed below that have been undertaken by the LECs, billing aggregators and service providers to curtail instances of cramming.

**III. THE RECORD SHOWS THAT EXCESSIVE REGULATION WOULD RAISE THIRD-PARTY BILLING AND COLLECTION COSTS AND THREATEN THE ELIMINATION OF VALUABLE LOW-COST SERVICES**

BOP stated in its comments that it did not oppose, in concept, the majority of the NPRM's proposals to clarify procedures for the offering of blocking of third-party charges and to improve the information available on telephone bills, provided they could be implemented without increasing the cost of LEC billing.<sup>14</sup> It is clear from the record, however, that the NPRM's proposals would increase LEC costs to provide third-party billing. In turn, these costs would in all likelihood be passed on to third-party service providers such as BOP.<sup>15</sup> Since BOP's service offering is based on a low-cost model, it cannot support proposals that would increase its costs and greatly impact its ability to provide its beneficial services.

CenturyLink estimated that the additional annual cost to fully and fairly describe third-party billing and consumers' opportunity to block in point-of-contact disclosures would be \$3 million.<sup>16</sup> In addition, with respect to providing additional disclosures on bills, including contact information for third-party service providers, CenturyLink confirms that "it must be remembered that each character and line of text adds costs to the third-party offering."<sup>17</sup> Other LECs, many

---

<sup>14</sup> Comments of Business Online Pages, Inc., CG Docket No. 11-116 at 1 (filed Oct. 24, 2011) ("BOP Comments").

<sup>15</sup> BOP agrees with BSG, that the Commission should carefully examine the comments of carriers regarding the costs of the Commission's proposals to ensure that they do not outweigh the benefits. *See* BSG Comments at 8-9.

<sup>16</sup> *See* CenturyLink Comments at n.16.

<sup>17</sup> *Id.* at 15.

that are much larger than CenturyLink, have not fully quantified their costs. A reasonable inference, however, would be that these costs are at least on par with if not greater than CenturyLink's. These industry costs would likely be passed along to third-party service providers that cannot incorporate them into their low-cost services for small businesses and consumers.

#### **IV. THE INDUSTRY HAS UNDERTAKEN EXTENSIVE AND EFFECTIVE EFFORTS TO REDUCE INSTANCES OF CRAMMING**

In 1998, at the urging of the Commission, the telecommunications industry developed new anti-cramming guidelines.<sup>18</sup> Pursuant to these voluntary efforts, in order to place a charge on a LEC's bill, BOP completes its own verification process and agreed via contract to comply with the detailed requirements imposed by its billing aggregator and the LEC that issues the bill to the customer. This generally includes pre-screening,<sup>19</sup> review of marketing materials, monitoring and compliance with complaint thresholds. The charge is then generally placed in a separate section of the LEC bill to avoid customer confusion.<sup>20</sup> If a customer complains that he or she did not authorize the charge, then a refund is provided (generally whether or not the customer is correct) and the LEC offers the customer third-party bill blocking.

As an example, Verizon screens third-party service providers through an application process, requires that marketing materials be submitted to Verizon for approval, monitors the number of cramming complaints received by provider and imposes threshold caps for such

---

<sup>18</sup> See *FCC and Industry Announce Best Practices Guidelines to Protect Consumers from Cramming*, FCC News Release (rel. July 22, 1998).

<sup>19</sup> BOP stated in its comments that "[c]arriers can and do conduct some screening of third party vendors pursuant to the rights and terms contained in the third party billing contracts." BOP Comments at n.23. BOP maintains that such screening is very different from the NPRM's proposal to require LECs to make an independent determination whether a third-party service provider complies with relevant state and federal laws, which raises due process concerns. See *id.* at 8-9.

<sup>20</sup> This requirement is also codified in the FCC's *Truth-in-Billing* rules. 47 C.F.R. § 64.2401(a)(2).

complaints.<sup>21</sup> Providers that exceed the applicable thresholds must submit a remedial “Action Plan” and can be terminated.<sup>22</sup> If a customer alleges that a charge was unauthorized, Verizon removes the charge from the bill and offers that customer third-party bill blocking.<sup>23</sup> These measures are adequate to address the limited cramming problem when viewed in the appropriate context of the millions of third-party charges that are placed on bills each month.

## V. CONCLUSION

Third-party billing and collection offers consumers low-cost services with the ease and convenience of a single bill. Alleged instances of cramming, while an important concern, are a mere drop in the bucket when compared to the number of third-party charges placed on LEC bills each month. Therefore, and in light of the likely increased costs of Commission regulation, the appropriate course of action is to rely upon market forces to discipline telephone company billing for third-party charges.

---

<sup>21</sup> See Verizon Comments at 4.

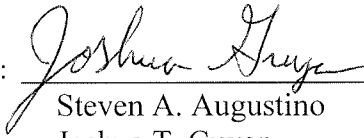
<sup>22</sup> See *id.*

<sup>23</sup> See *id.* at 4-5.

The industry has adopted a voluntary code of billing guidelines that ensure services are knowingly authorized and that enable billing agents to quickly identify and root out companies that violate the prescribed standards of conduct. This voluntary code can be further refined, but it can adequately address instances of cramming.

Respectfully submitted,

BUSINESS ONLINE PAGES, INC.

BY:   
Steven A. Augustino  
Joshua T. Guyan  
**KELLEY DRYE & WARREN LLP**  
3050 K Street NW  
Suite 400  
Washington, D.C. 20007  
Telephone: (202) 342-8400  
Facsimile: (202) 342-8451  
[SAugustino@kelleydrye.com](mailto:SAugustino@kelleydrye.com)

*Its Attorneys*

December 5, 2011